

CRM-M-45381 of 2024

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

211

CRM-M-45381 of 2024

DATE OF DECISION :- 30.09.2024

Raju

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Monty Goyal, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.03 dated 05.01.2023, registered for the offences punishable under Sections 323,294,427,506,148,149 of IPC and later on added Sections 307,354 of IPCat Police Station Dugri, Ludhiana.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“12. FIR contents: Statement of Sonali daughter of Tulsi Ram, resident of House No.1035 Gali No.4, Bhai Himmat Singh Nagar, Block A, Dugri aged about 30 years Mobile No.9876144056, stated that I am resident of above mentioned address and doing makeup artist work. On dated 30.12.2022 at about 12:30 PM, a person namely Raju who is residing in my neighbourhood and at his house, the work of throwing debris were going on and they are throwing the debris from third storey to directly in the trolley which parked in the street by them. My mother Raj Kumari raised objection on throwing the debris directly in the street to their labourer, because our Activa got damaged which was parked in this street, then mother of Raju came in the street and started



arguing with my mother by stating that we do as it is, do whatever you want to do and Raju's mother started quarrelling with my mother by saying bad things about my character and by saying disrespecting word about me, because of which, the hot arguments taken place between them and we left from the spot. My father Tulsi Ram called on phone to my brother to come at home and Raju's mother called my brother namely Sumit to her and started arguing with my brother also, then I sent my brother in the house. When I along with my mother took my Aactiva to go, then Raju and her mother started abusing me and my mother, after listening voice of quarrel my father and brother came outside the house, then Raju started arguing with my brother and started shooting video on my mobile phone of all this occurrence, then Raju's mother slapped me many times and she broke my mobile by throwing it on ground and Raju's wife namely Diksha also slapped me many times and sister in law of Raju namely Priyanka Kumari (bhabhi.) also gave 7/8 stone blow to me and I sit there by holding my head and my clothes were wet in the blood. Then Raju's nephew (bhatija) namely Sahil Kumar gave 5/7 blow of iron rod on the back side of my thigh and Raju's mother pushed me aside while she was beating me and I felt in the position of unconsciousness and Raju's daughter namely Dolly hit marble stone blow on my forehead and I became unconscious on spot and when I was unconscious, the Raju's son gave leg blow to me, then Raju's brother Vinod checked me on spot, whether I was died or not and then whole family run away from the spot. My brother took me to hospital and admitted me for treatment. Raju and his family tried to kill me and I have threats to my life and my whole family badly injured by Raju's family. Statement is readover, listen and same is correct. Sd/- Sonali (Signatures in English) 9876144056, witnessed by: Raj Kumari (Signatures in English) 9888858826 Verified by ASI Partap Singh No. 2334/Ldh Police Station Dugri, Ludhiana dated Police 05.01.2023. 02.01.2023, I ASI action: On dated was present in the police station, then Main Munshi of police station told me that MLR NT/206/2023 of Sonali, MLR No, PP/310/23 of Tulsi Ram, MLR



PP/309/23 of Raj Kumari MLR and No. PP/302/23 MLR/PP/303/23 Vinod Kumar, MLR No. Priyanka, PP/301/2022 Raju, MLR PP/300/23 Murti Devi residents of Himmat Singh Nagar Ludhiana have quarrelled with each other and action be taken after receiving MLR, upon which I ASI alongwith the colleagues reached at Chowki Civil Hospital and received MI Rs of above mentioned persons and enquired about the victim persons and no victims were admitted in the Civil hospital. Munshi of police station Division 4 is received and he stated that victim Sonali daughter of Tulsi Ram resident of House No. 1034 Gali No.4 Bhai Himmat Singh Nagar Block A Dugri, Ludhiana, is admitted in Bhagwan Ram Charitable Hospital Admission No. 10566, Daresi Ludhiana CR No.224456 02.01.2023 due to quarrel and now vide dated action be taken. Upon which, I ASI alongwith colleagues on receiving of from the Ruqa division 04 Daresi Charitable Hospital reached Daresi police station at Bhagwan Ludhiana. Ram For recording the statement of victim Sonali, advice has been taken from Doctor by writing application and doctor opined her fit for recording the statement, upon which I ASI on returning entered rapat in Roznamacha. On dated 04.01.2023 I ASI alongwith CT Gurpreet Singh No.4251/Ldh, CT Jaskaran Singh No.3999/Lah reached at Bhagwan Ram Charitable Hospital and on the MLR No.206/2023 of Sonali doctor marked total 6 injuries which are blunt and simple in nature and in MLR No. PP/310/23 of Tulsi Ram doctor opined total 2 injuries, both are simple and caused with weapon and in MLR PP/309/23 of victim Raj Kumar doctor opined 3 injuries and all are in simple nature and No.1 receiving injury was of X-ray under X-Ray. kept the proceeding will On be initiated as per report and further proceedings will be initiated after obtaining the MLR of other side. I ASI for recording the statement of victim, reached at her bed, who was talking with her relatives and she read her recorded stated as she got written the same, readover and after leistering the same, she found it correct and put her signature in English and the same is verified by her mother Raju Kumari. For the perusal of statement and MLR offence u/s 294,



427, 323, 506, 148, 149 IPC has been found committed. Upon which statement has been sent to the police station by hand of Constable Jaskaran Singh No.3099/Ldh. for registering of FIR against Vinod Kumar son of late Hira Lal resident of House No.1035 Gali No.04, Bhai Himmat Singh Nagar, Block A, Dugri Ludhiana, Sahil, Harihar, Raju, Raju's wife Raju, Raju's daughter Doli, Vinod's wife Priyanka, Ram Murti. FIR number be intimated after registering the same and higher official be intimated. I ASI alongwith colleagues going on spot. In the limits of: Bhagwan Ram Charitable Hospital, Ludhiana at 1:30 AM Sd/ ASI Partap Singh No.2334/Ldh, Police Station Durali Ludhiana dated 05.01.7023. Today on receiving the statement in the police Station an FIR is registered under the above mentioned offence against Vinod Kumar son of late Hira Lal resident of House No. 1035 Gali No.04, Bhai Himmat Singh Nagar, Block A, Dugri Ludhiana, Sahil, Harihar, Raju, Raju's wife Raju, Raju's daughter Doli, Vinod's wife Priyanka, Ram Murti. Original statement alongwith copy of FIR has been sent to ASI through coming CT. Information supplied to Control room through phone. Closing Report No. 4.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 02.12.2023. Learned counsel has further submitted that the dispute (even it is assumed to be true) has taken place on account of throwing of debris in the locality. Learned counsel for the petitioner has further submitted that no active role has been ascribed to the petitioner except for causing simple injury and outraging the modesty of a woman during the course of fight. Learned counsel for the petitioner has further submitted that the issue as to whether Section 354 of IPC is made out in the factual matrix of the case is also a matter of debate. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to



place on record custody certificate dated 29.09.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. Mr. Harkirat Singh Ghuman, Advocate has filed vakalatnama for the complainant. The same be taken on record.

Learned counsel for the complainant has vehemently opposed the grant of regular bail to the petitioner by arguing that the allegations made against the petitioner are serious in nature. Learned counsel for the complainant has further submitted that there is clear evidence, especially in terms of CCTV camera footage, to show the guilt of the petitioner and thus petitioner should not be granted the concession of regular bail. Learned counsel for the complainant has further submitted that the petitioner has clear apprehension, in view of the antecedents of the petitioner, that in case the petitioner is released on regular bail he may threaten the complainant as also influence the prosecution witnesses.

7. The petitioner was arrested on 02.12.2023 whereinafter investigation was carried out and challan stands presented on 26.02.2024. Total 16 prosecution witnesses have been cited and culmination of trial, but of course, will take its own time. The rival contention of learned counsel for the parties; as to whether the cause of fight between the parties is actually throwing of debris in the locality, whether a cross case has been registered at the instance of the accused side and effect thereof as also whether Section 354 of IPC is made out from the factual matrix of the case; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. The



first bail petition preferred on behalf of the petitioner was withdrawn on 28.08.2024 as on account of inadvertence, the entire incidents of the petitioner could not be mentioned in that petition. As per custody certificate dated 29.09.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 09 months and 25 days. The factum of petitioner being involved in other FIR(s) cannot be construed, as a factor by itself, for declining the concession of regular bail to the petitioner in the instant case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

8. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.



9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.
10. Ordered accordingly.
11. Liberty is reserved in favour of the complainant to seek recall of this order on showing sufficient cause.
12. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
13. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

30.09.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No